



## ARIZONA BOARD OF APPRAISAL

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ARIZONA BOARD OF APPRAISAL

### MINUTES REGULAR BOARD MEETING Friday, February 10, 2012 8:30 AM

#### **Call to Order and Roll Call**

Regular Board meeting called to order by Les Abrams, Chairperson at 8:37 a.m.

#### Board members Present at Roll Call:

Les Abrams  
Debbie Rudd  
Mike Trueba  
James Heaslet  
Myra Jefferson  
Kevin Yeanoplos  
Joe Stroud  
Mike Petrus  
Frank Ugenti

#### Staff Attendance:

Jeanne Galvin - Assistant Attorney General  
Rebecca Loar – Regulatory Compliance Officer  
Jessica Sapio – Licensing and Education Administrator

#### **Pledge Allegiance to the Flag**

#### **Approval of Minutes**

Debbie Rudd made the motion that the Board table the January 27, 2012 draft minutes to allow staff to make some corrections. Frank Ugenti seconded the motion. The Board voted unanimously in favor of the motion.

#### **Review and Action concerning 3360 Jeffrey P. Wright, Jr.**

Respondent appeared. There was discussion relating to the Supervisor/Trainee rule. Respondent explained that the complainant was a research analyst and not hired as a trainee. Mike Petrus made the motion that the Board find no violations and dismiss the complaint. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

#### **Review and Action concerning 3252 Tracey M. Captain**

James Heaslet recused himself from this matter. Respondent Appeared. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Mike Petrus seconded the motion. The Board voted in favor of the motion.

### **Call to the Public**

Bill Barnes, certified general appraiser, addressed the Board. He discussed his concern with the public's perception of the Board and the possibility of favoritism as it is related to a complaint against Joanna Conde that the Board considered at the January 27, 2012 meeting. Mr. Barnes submitted a handout to the Board. In addition, Mr. Barnes informed the Board of his concern about a pending complaint against two of the complainants to the Joanna Conde complaint regarding favoritism between the student and instructor. Alleging the instructor gave class credit where the student did not earn it. Mr. Barnes suggested that the Board suspend the instructor's teaching and investigation capability until the Board resolves this complaint. Mr. Barnes also mentioned that related to the Conde complaint, there were emails that he says suggests the Board's executive director showing favoritism to certain groups by attending or not attending the meetings and he felt that it was not favorable to the Board.

### **Review and Action concerning 3343 Peter Crimando**

Respondent appeared. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

### **Review and Action concerning 3354 Donna L. Hastings**

Respondent appeared. There was discussion that it is not a violation of USPAP to use MLS photos but it is a USPAP violation to certify that an appraiser inspected the property when no inspection occurred. Debbie Rudd made the motion that the Board send this to investigation. Frank Ugenti seconded the motion. The motion passed with Mike Petrus voting no.

### **Review and Action concerning 3347 Jeff A. Hylands**

Respondent appeared. There was discussion on the appropriate Scope of Work regarding completing the URAR form. Debbie Rudd made a motion that the Board find a level 3 violation, citing USPAP violations; 1-1a, 1-2 h, scope of work, 1-4a, 1-4b, 1-4ciii, 2-1, 2-3, and Ethics-Competency. Offer a Consent Agreement with 6 months probation with mentorship to complete a minimum of 12 reports with disciplinary education. There was discussion whether there was an ethics violation. Jeanne Galvin, Assistant Attorney General repeated the motion. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion. Joe Stroud made a comment on the lender's perspective and the effect a misleading appraisal has on the client and the lending industry.

### **Review and Action concerning 3340 Donald J. Stenberg**

Frank Ugenti recused himself from this matter. Respondent appeared. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Debbie Rudd seconded the motion. The Board voted in favor of the motion.

### **Review and Action concerning 3341 Gordon M. Hugh**

Respondent appeared. Debbie Rudd made the motion that the Board refer this to investigation and to limit the investigation to the measurement of the house. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3348 Michelle D. Clark**

Respondent appeared. Debbie Rudd made the motion that the Board refer this to investigation to compare the two appraisal reports from Respondent and the other report included in her work file. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3346 Debra J. Rudd present**

Debbie Rudd recused herself from this matter. Respondent appeared. James Heaslet made the motion that the Board accept the investigator's report. Mike Trueba seconded the motion. The Board voted in favor of the motion. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Mike Petrus seconded the motion. The Board voted in favor of the motion.

**Informal Hearing regarding 3292 Mark S. Glade**

Debbie Rudd recused herself from this matter. Respondent was sworn in and gave an opening statement. Respondent suggested to the Board to consider sending future Board notices via email instead of regular and certified mail. During his opening statement Respondent explained his reasoning for using MLS in his research when completing the appraisal report. Respondent submitted a corrected appraisal report for the Board to consider. There was discussion relating to the Respondent's methodology and analysis of Respondent's resources used in his appraisal report. Respondent gave a closing statement and mentioned that even though his methodology of relying on MLS is not necessarily preferable to the Board it is not a USPAP violation. James Heaslet made the motion that the Board refer this matter to investigation to include the corrected report Respondent submitted to the Board today. Mike Trueba seconded the motion. There was discussion regarding what is required by USPAP in relation to draft appraisal reports in the work file. The Board voted in favor of the motion.

**Informal Hearing regarding 3144 Ryan A. P. Fortuna**

Respondent appeared and was sworn in. Respondent gave an opening statement and described the condition of the Arizona room to the Board and his reasoning for not including it in the GLA (Gross Living Area) in the appraisal report. The Respondent gave a closing statement and informed the Board that there were mistakes and that he has approved himself since then. Debbie Rudd made the motion that the Board find a level 2 violation, citing the USPAP violations found in the investigative report and offered Respondent a Letter of Due Diligence to include disciplinary education to be completed within six months. Frank Ugenti seconded the motion. The Board voted unanimously in favor of the motion.

**Informal Hearing regarding 3133/3179 Brad L. Duecker**

Respondent appeared and was sworn in. Respondent and gave an opening statement related to Complaint 3133 and mentioned an oversight for not including the golf course. Respondent informed the Board how he now researches the subject property, comparables, neighborhood, etc. Respondent made an opening statement related to Complaint 3179 and informed the Board that he takes more time and does a lot more research in preparation for his reports now. Debbie Rudd made the motion that the Board combine both complaints and find a level 2 violation, citing the USPAP violations found in the investigative report for Complaint 3133 and the USPAP violations 1-1a, 1-2e, 1-3a, 1-4a, 2-1 b, relating to Complaint 3179 and to offer a Nondisciplinary Remedial Action Letter, requiring education within 6 months. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

**Call to the Public/and New Business Re: HB 2778**

Keith Russell appeared before the Board as the President of the Appraisal Institute, Phoenix Chapter looking for the Board's insight on House Bill 2778 (see attached).

32-3604 C) The requirement for non-appraiser Board members to have some exposure to USPAP.

32-3610) Uniform Standards of Appraisal Practice (USPAP) state standards: exception.

32-3625 H) A qualifying or continuing education class may be applied to an appraiser's subsequent renewal period if the appraiser takes the class after the appraiser delivers a renewal application to the Board within the period specified in Section 32-3619, Subsection A or B.

32-3628) Inactive license or certificate status during military duty; reactivation application: renewal application and fee: continuing education.

32-3673 B) The fee paid to an appraiser for an appraisal report must be stated in the scope of work section of the appraisal report.

32-3681 An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not require an appraiser to indemnify or hold harmless the appraisal management company against any liability except for liability that results from errors or omissions by the appraiser.

Mr. Russell would like to get the Board's opinion or standing on this proposed pending legislation.

There was a lot of discussion on each issue presented. Frank Ugenti suggested the Board table this matter and allow time for the Board to draft new language that would be acceptable by the Board. Due to the time frame and the fact that this proposed bill is scheduled on the House of Representative's agenda for next Monday at 2 p.m. it was agreed by the Board to give Mr. Russell their positions on these matters.

David Thomas with AAREA commented and explained the reasoning behind the proposed bill relating to the requirement for all public board members (non-appraiser) to take a minimum of a three hour USPAP class see section 32-3604 C. The Board took a vote on whether to accept the proposed language.

James Heaslet voted no

Kevin Yeanoplos voted no

Debbie Rudd voted no

Mike Petrus voted yes

Joe Stroud voted yes

Mike Trueba voted yes

Frank Ugenti voted yes

Les Abrams voted no

The Board was evenly split on this issue and no consensus was reached.

The Board took a vote on whether to accept the proposed language for 32-3610) to remove adopting USPAP from rule and put it into law. David Thomas asked how many times in the past has USPAP not been incorporated timely into the Board's rules. Keith Russell suggested that the Board allow this to go through the session but the Board can reserve the right to ask the legislature to hold this until more appropriate language can be drafted. The Board voted and there was a general consensus in support of the provision. Debbie Rudd and James Heaslet agreed to represent the Board before the House of Representatives.

The issue of education may be applied to an appraiser's subsequent renewal period. 32-3625 H. Debbie Rudd stated that there could be a possible objection by the Appraisal Qualifications Standard Board (AQB). The Board voted that it would only be against the proposed language if the AQB is in conflict.

32-3628 The issue related to the inactive license or certificate status during military duty; reactivation application; renewal application and fee; continuing education. The Board voted and there was a general consensus in agreement with the proposed language.

32-3673 B The issue related to the disclosure of appraiser fees. Frank Ugenti stated he would like the proposed language to clearly state it is the appraiser's burden to disclose the appraiser's fee and that he agreed with the need for transparency. Mike Petrus and Joe Stroud stated that they disagree with the language as it is proposed. The Board voted and there was not a general consensus with respect to the proposed language.

Mike Petrus voted no  
Joe Stroud voted no  
Kevin Yeanoplos voted no

32-3681 The issue related to prohibited practices. The Board voted and there was a general consensus in agreement to the proposed language.

The Board recessed for lunch. James Heaslet left the meeting at 12:45. The Board reconvened at 2:00 p.m.

#### **Review and Action concerning 3344 Shawn T. Sutton**

Respondent appeared. There was discussion on how to statistically provide at least 30 data points to validate data. Respondent explained his resources and methodology when analyzing comparable sales, upgrades and adjustments. Debbie Rudd made the motion that the Board find a level 1, citing USPAP violations 1-1a, 2-1 a, 1-3a and offer a Nondisciplinary Letter of Concern. Frank Ugenti seconded the motion. The Board voted unanimously in favor of the motion.

#### **Review and Action concerning 3351 Debbie M. Robinson**

Respondent appeared and informed the Board that she is not currently working in the appraisal field. Debbie Rudd made a motion that the Board find a level 2 violation, citing USPAP violations 1-3a, 1-5a, and Competency. Considering Respondent is not currently working in this field probation would not apply. Offer Respondent a Letter of Due Diligence requiring disciplinary education to be completed within 6 months. Mike Petrus seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3182 Richard T. Salceda**

Respondent did not appear. Debbie Rudd made the motion for the Board to accept the investigator's report and invite Respondent to an informal hearing. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3221 Richard T. Salceda**

Debbie Rudd made the motion for the Board to accept the investigator's report and combine with Complaint 3182 and invite Respondent to an informal hearing. Mike Trueba seconded the motion. Mike Petrus abstained, and the Board voted in favor of the motion.

**Review and Action concerning 3208 Arturo G. Reeder**

Respondent did not appear. Mike Trueba made the motion for the Board to accept the investigative report except for a typo on the first page. Frank Ugenti seconded the motion. The Board voted unanimously in favor of the motion. Debbie Rudd made a motion that the Board find a level 2 violation, citing USPAP violations found in the investigative report and offer Respondent a Letter of Due Diligence with disciplinary education to be completed within 6 months. Mike Petrus seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3235 Forrest K. McElmurry**

Respondent did not appear. Mike Petrus made the motion for the Board to accept the investigative report. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion. Mike Petrus made the motion that the Board find no violations and dismiss the complaint. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3300 Daniel O. Ragno**

Jeanne Galvin, Assistant Attorney General informed the Board that Respondent's attorney just received notice of the meeting and could not be available and requested this be tabled for next Board meeting. The chairperson agreed and tabled this matter for the next Board meeting.

**Review and Action concerning 3332 Wade A. LaVigne**

Frank Ugenti recused himself from this matter. Respondent did not appear. Debbie Rudd made the motion that the Board find a level 2 violation, citing violations 1-4a, 1-2h Scope of Work, and to offer Respondent a Nondisciplinary Remedial Action Letter with nondisciplinary education. Debbie Rudd amended her motion to combine this complaint to the proposed Consent Agreement and Order for a Voluntary Surrender for all pending complaints. Joe Stroud seconded the motion. The Board voted in favor of the motion.

**Review and Action concerning 3339 Brent P. Hillman**

Frank Ugenti recused himself from this matter. Respondent did not appear. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Mike Petrus seconded the motion. Mike Petrus seconded the motion. The Board voted in favor of the motion.

**Review and Action concerning 3338 James E. Clevenger**

Respondent did not appear. Frank Ugenti made the motion that the Board find a level 2 violation, citing USPAP violations; 2-1a, and 1-1a and offer Respondent a Nondisciplinary Remedial Action Letter requiring nondisciplinary education within 6

months. Mike Trueba seconded the motion. The Board voted in favor of the motion, with Mike Petrus voting no.

**Review and Action concerning 3342 Patricia L. Gerarde**

Respondent did not appear. Frank Ugenti made a statement to the Board, the appraisal used to belong to Chase which is part of Corelogic which is the parent company of the company he works for. However, Mr. Ugenti stated that he has no interest in any of the parties and therefore decided not to recuse himself from this matter. Debbie Rudd made the motion that the Board find a level 1 violation, citing USPAP violation 1-1b and offer Respondent a Nondisciplinary Letter of Concern. Mike Petrus seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3345 Michelle T. Caraballo**

Respondent did not appear. Debbie Rudd made the motion that the Board find a level violation, citing USPAP violations; 1-1a, 1-4a, 1-3 a & b, but the motion failed for lack of a second. Mike Petrus made the motion that the Board invite Respondent to an informal hearing. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3350 Mark A. Heitzinger**

Respondent did not appear. Debbie Rudd made the motion that the Board find a level 3 violation, citing USPAP 2-4 violation and offer Respondent a Letter of Due Diligence with disciplinary education to be completed within 6 months. And to include in the Due Diligence Consent Letter recommend Respondent to attest that he has read and understands USPAP Advisory Opinion 21. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning 3358 Jay A. Josephs**

Respondent did not appear. Mike Petrus made the motion that the Board find no violation and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

**12-Month File Review**

Rebecca Loar, Regulatory Compliance Officer gave an update to the Board. There was discussion if Rebecca Loar could negotiate with Respondents to waive the required 35-day notice for informal hearings and get them on the agenda sooner. Rebecca Loar agreed and informed the Board that she has already rescheduled two informals with the Respondents waiving the 35-day notice requirement and will continue to do so. It was suggested that Rebecca Loar prepare a report for the Board to include a list of all pending complaints that have not been adjudicated by the Board to help assess the Board's work load and to help analyze and close the complaints that have been pending longer than 12-months. Rebecca Loar informed the Board that a report will be prepared and presented at the next Board meeting.

**Review and Action concerning A0052 Broad Street Valuations, Inc.**

Respondent did not appear. Rebecca Loar, Regulatory Compliance Officer read an email to the Board that was sent and requested by the complainant, see attached. Frank Ugenti informed the Board that the complainant was a prior employee and he shows no bias and therefore decided not to recuse himself from this matter. Jeanne Galvin, Assistant Attorney General informed the Board of A.R.S. §32-3677 and §32-3674 and gave a summary of both. Debbie Rudd made the motion for the Board to find

no violations and dismiss the complaint. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning A0053 Foxtrot Corporation**

Respondent did not appear. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Mike Petrus seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning A0054 Accurate Appraisal Management Services**

Respondent did not appear. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. Mike Petrus seconded the motion. The Board voted unanimously in favor of the motion.

**Review and Action concerning A0021 Real Estate Transactions**

Respondent did not appear. Debbie Rudd made the motion that the Board instruct Jeanne Galvin, Assistant Attorney General time to investigate the possibility of seeking an injunction. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

**Application Review Committee**

Mike Petrus gave the recommendations of the Application Review Committee to the Board. Mike Trueba made a motion for the Board to accept the committee's recommendations. Joe Stroud seconded the motion. The Board voted unanimously in favor of the motion.

**Testing and Education Committee**

Mike Petrus gave the recommendations of the committee to the Board. Mike Trueba made a motion for the Board to accept the committee's recommendations. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

**New Business: Discussion consideration, and possible action on the attendance fro the Spring AARO (Association of Appraiser Regulatory Officials) Conference April 21, 2012 by one or more Board member/staff and required funding.**

Debbie Rudd updated the Board on the cost and location of the conference and that she would like to attend. Frank Ugenti made the motion that the Board allow Debbie Rudd and one more Board member to attend. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

**New Business: Discussion, consideration, and possible action concerning pending legislation, including but not limited to HB2778**

Jeanne Galvin, Assistant Attorney General informed the Board that there is one more piece of proposed legislation that needs to be discussed. The issue regarding 32-3681 Section 7 Appraisal Management Company (AMC) investigative Committee, a panel to review and report back to the governor on how the AMCs are affecting the industry. The Board is not oppose to this as long as it is removed from the Appraisal laws and needs to clarify where the funds will be coming from.

There was discussion about the two allegations of favoritism among the Board and what would be the best response to the public. It was decided that this matter go on the next board meeting agenda. Frank Ugenti would like the Board to discuss the issue that registered trainees are under the jurisdiction of the Board in other states. There was a



discussion that the Board would like to have a retreat or study session once the Board gets passed the back log of complaints that have been pending longer than 12-months.

**Dates and Times**

Rebecca Loar, Regulatory Compliance Officer made a statement before the Board that due to a family emergency among the board staff there was a slight delay and a few technical issues. Rebecca Loar also thanked Jessica Sapio for stepping in last minute and assisting with the functions of the board meeting today and for the assistance of Jeanne Galvin, Assistant Attorney General for her additional assistance today. Rebecca Loar informed the Board that the next scheduled Board meeting will be on Friday February 24, 2012 at the 1616 W. Adams State Land Department Building, Basement Auditorium. The Board requested staff to keep looking for a more suitable location for future meetings.

**Meeting Adjourned**



Les Abrams, Chairperson